

(S.J.R. 8)

CONSTITUTIONAL AMENDMENT B

RESOLUTION REGARDING ELIGIBILITY FOR LEGISLATIVE OFFICE

2009 GENERAL SESSION

SENATE: 28-0-1

HOUSE: 72-0-3

BALLOT TITLE

☐ **FOR**

☐ **AGAINST**

Shall the Utah Constitution be amended to:

- specify the residency requirements for a person appointed to fill a vacancy in the office of state senator or state representative; and
- prohibit a person appointed to the office of state senator or state representative from continuing to serve in that office if the person ceases to be a resident of the district for which the person was appointed?

IMPARTIAL ANALYSIS

Constitutional Amendment B modifies a provision of the Utah Constitution regarding eligibility requirements for the office of state senator or state representative. The Amendment requires a person appointed to fill a mid-term vacancy in one of those offices to be a resident of the state for three consecutive years immediately before appointment and a resident of the legislative district for six consecutive months immediately before appointment.

The Amendment also prohibits a person appointed to fill a vacancy in a legislative office from continuing to serve in office after ceasing to be a resident of the district for which the person was appointed.

Current provisions of the Utah Constitution

The Utah Constitution currently states that a person is not eligible for the office of state senator or representative unless the person meets certain requirements, including residency requirements. The residency requirements are that a person must be a resident of the state for three consecutive years immediately before the deadline for filing for office and a resident of the district from which the person is elected for six consecutive months immediately before the filing deadline. The requirement to be a resident of the state for three years is phrased in terms that may apply to both a person who is elected to office and a person who is appointed to fill a mid-term vacancy. The requirement to be a resident of the legislative district for six months is phrased in terms that apply only to a person who is elected to office.

The Utah Constitution also prohibits a person who is elected to a legislative office from continuing to serve in that office after ceasing to be a resident of the district from which the person was elected. This provision is phrased in terms that apply only to a person who is elected to office and not to a person who is appointed to fill a mid-term vacancy.

Effect of Constitutional Amendment B

Constitutional Amendment B specifically addresses residency requirements for a person who is appointed to fill a mid-term vacancy in a legislative office. The Amendment requires a person appointed to fill a vacancy to be a resident of the state for three consecutive years immediately before the person's appointment and a resident of the legislative district for six consecutive months immediately before the person's appointment.

The Amendment also prohibits a person appointed to fill a vacant legislative office from continuing to serve in that office if the person ceases to be a resident of the district for which the person was appointed.

Effective Date

If approved by voters, Constitutional Amendment B takes effect January 1, 2011.

Fiscal Impact

Constitutional Amendment B will have no direct, measurable impact on state or local government costs or revenues.

ARGUMENT FOR

Amendment "B" is designed to apply the same eligibility requirements, whether a person is *elected* or *appointed* to serve in a legislative office.

The current constitutional provision applies only to persons who are *elected* to the legislature. A person seeking election must meet two residency requirements. **First**, the person must have been a resident of Utah for at least three consecutive years immediately before the deadline for filing a declaration of candidacy. **Second**, also immediately before that deadline, the person must have been a resident of the legislative district for at least six consecutive months.

Amendment "B" simply imposes the same residency requirements on persons *appointed* to fill the unexpired term of a legislator who leaves office in mid-term. However, the crucial date is the date of *appointment* rather than the date of *filing* for election. A person appointed to fill a vacancy must have been a resident of Utah for at least three consecutive years immediately prior to the date of *appointment*. The person must also have been a resident of the legislative district that will be represented for at least six consecutive months immediately prior to the date of *appointment*.

Amendment "B" goes on to clarify that the *continuing residency requirement* within the district applies not only to a person *elected* but also to a person *appointed*. In either case, if a legislator ceases to reside in the legislative district, the eligibility to represent that district also ends.

CITIZENS SHOULD VOTE YES FOR THIS AMENDMENT. It is a common sense clarification required to make certain that state representatives and state senators live among the people whom they represent. The Utah Constitutional Revision Commission favorably recommended this amendment and adoption of this amendment was unanimously endorsed by both the Utah House of Representatives and the Utah State Senate.

- Senator Scott McCoy
- Representative Kay McIlff

ARGUMENT AGAINST

No argument submitted.

COMPLETE TEXT CONSTITUTIONAL AMENDMENT B

Utah Constitution Sections Affected:

AMENDS:

ARTICLE VI, SECTION 5

Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each of the two houses voting in favor thereof:

Section 1. It is proposed to amend Utah Constitution Article VI, Section 5, to read:

Article VI, Section 5. [Who is eligible as a legislator.]

~~[No]~~ *(1) A person ~~[shall be]~~ is not* eligible to the office of senator or representative ~~[who]~~ *unless the person* is ~~[not]~~:

(a) a citizen of the United States;

(b) at least twenty-five years of age;

(c) a qualified voter in the district from which the person is chosen;

(d) a resident of the state for three consecutive years immediately prior to:

(i) the last date provided by statute for filing for the office, for a person seeking election to the office; or

(ii) the person's appointment to the office, for a person appointed to fill a mid-term vacancy; and

(e) (i) a resident of the district from which the person is elected for six consecutive months immediately prior to the last date provided by statute for filing for the office~~[-No]; or~~

(ii) a resident of the district for which the person is appointed to fill a mid-term vacancy for six consecutive months immediately prior to the person's appointment.

COMPLETE TEXT CONSTITUTIONAL AMENDMENT B (CONTINUED)

(2) A person elected *or appointed* to the office of senator or representative ~~[shall]~~ *may not* continue to serve in that office after ceasing to be a resident of the district from which elected *or for which appointed*.

Section 2. **Submittal to voters.**

The lieutenant governor is directed to submit this proposed amendment to the voters of the state at the next regular general election in the manner provided by law.

Section 3. **Effective date.**

If the amendment proposed by this joint resolution is approved by a majority of those voting on it at the next regular general election, the amendment shall take effect on January 1, 2011.